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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,796	12/20/2000	Robert H. Montgomery JR.	K-1744	8446

7590 05/21/2003  
John J. Prizzi  
Kennametal Inc.  
P.O. Box 231  
Latrobe, PA 15650

EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Interview Summary

Application No.

09/742,796

Applicant(s)

MONTGOMERY, ROBERT H.

Examiner

John Kreck

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All participants (applicant, applicant's representative, PTO personnel):

(1) John Kreck.

(3) \_\_\_\_\_.

(2) Kevin Weldon.

(4) \_\_\_\_\_.

Date of Interview: 16 May 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 7, 9, 16 and 17.

Identification of prior art discussed: \_\_\_\_\_.

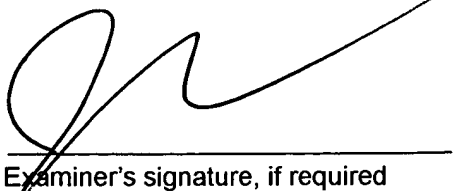
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

##### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

##### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative contacted examiner regarding the final rejection mailed 11/21/02. Applicant's representative noted that there were errors in the final rejection (errors in paragraph 1, under "Claim Rejections 35 USC 103" and paragraph 3 under "Allowable Subject Matter" on pages 3 and 11 respectively), and requested withdrawal of finality/reopening of prosecution. Applicant was informed that, in accordance with MPEP 710.06; the period for reply would not be restarted, and the finality of the previous office action would not be withdrawn since the error was called to the attention of the Office more than 2 months after the end of the period for reply. A corrected copy of the office action mailed 11/21/02 will be sent to applicant, but the period for reply continues to run from 11/21/02.

### **DETAILED ACTION**

The amendment dated 8/13/02 has been entered.

#### ***Election/Restrictions***

1. Newly submitted claims 29-35 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The new claims and the originally presented claims are related as subcombination and combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require the angled retainer. The subcombination has separate utility such as in a not-tapered sleeve.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-35 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 19 and 21 lack antecedent basis for "said male member" and "said female member".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 8, 10, 11, 13, 16, 18, 19, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey, et al. (U.S. Patent Number 5,628,549) in view of LeBegue, et al. (U.S. Patent number 4,299,424).

The Ritchey patent shows an apparatus for mounting a cutting tool comprising a bit holder (112); a protective wear sleeve (114); the sleeve having an external portion and a portion that is adapted to be received in the holder; the wear sleeve portion that is adapted to be received including a rearward disc end portion, an annular groove portion (170), and a retainer whereby once the sleeve is set in the bit holder by blows with a

hammer the sleeve will remain without relative rotation or axial movement. Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 1, in order to reduce stress on the base.

The Ritchey patent also shows the retainer is generally a cylindrical split sleeve retainer having beveled portions (see figures 6 or 10) as called for in claim 8.

Regarding independent claim 10:

The Ritchey patent shows a joint coupling comprising a female member (112); a male member (114); the male member having an external portion and a portion that is adapted to be received in the female member; the male member portion that is adapted to be received including a rearward disc end portion, an annular groove portion (170), and a retainer whereby once the male member is set in the female member the male member will remain without relative rotation or axial movement. Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 10, in order to reduce stress on the base.

The Ritchey patent also shows the retainer (116) positioned as called for in claim 11.

With regards to claim 13; Ritchey shows the female portion having a cylindrical portion, but fails to show the tapered portion. LeBegue teaches that it is desirable to include tapered portions in portions of similar tools, leBegue also teaches a rearward cylindrical portion. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 13, while retaining a rear cylindrical portion in order to reduce stress on the base.

The Ritchey patent also shows the retainer is generally a cylindrical split sleeve retainer having beveled portions (see figures 6 or 10) as called for in claim 16.

Regarding independent claim 18:

The Ritchey patent shows a cutting tool assembly comprising a bit holder (112); a protective wear sleeve (114); the sleeve having an external portion and a portion that is adapted to be received in the holder; the wear sleeve portion that is adapted to be



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received including a rearward disc end portion, an annular groove portion (170), and a retainer whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement and wherein the retainer is biased outwardly. Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 18, in order to reduce stress on the base.

Regarding independent claim 19:

The Ritchey patent shows a cutting tool assembly comprising a bit holder (112) with a rear cylindrical portion; a protective wear sleeve (114); the sleeve having an external portion and a portion that is adapted to be received in the holder; the wear sleeve portion that is adapted to be received including a rearward disc end portion, an annular groove portion (170), and a retainer whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement and wherein the retainer is biased outwardly. Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 19, in order to reduce stress on the base.

Ritchey also shows the shoulder as called for in claim 20.

Regarding independent claim 21:

The Ritchey patent shows a cutting tool assembly comprising a bit holder (112) with a rear cylindrical portion; a protective wear sleeve (114); the sleeve having an external portion and a portion that is adapted to be received in the holder; the wear sleeve portion that is adapted to be received including a rearward disc end portion, an annular groove portion (170), and a retainer whereby once the sleeve is set in the bit holder by blows with a hammer the sleeve will remain without relative rotation or axial movement and wherein the retainer is biased outwardly. Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as called for in claim 21, in order to reduce stress on the base.

2. Claims 2, 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey and Lebegue as applied to claim 1 above, and further in view of Stewerf, Jr. (U.S. Patent number 5,370,448).

Lebegue fails to show the angle of taper. Stewerf teaches a taper of 6°. It is apparent that the angle taught by Stewerf is effective to help prevent rotation. It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Ritchey system to have a taper angle of between 5.5-7° as called for in claim 2, to help prevent rotation.

Ritchey also shows the retainer positioned around the groove as called for in claim 3.

With regards to claim 5; Ritchey shows the female portion having a cylindrical portion, but fails to show the tapered portion. LeBegue teaches that it is desirable to include tapered portions in portions of similar tools, LeBegue also teaches a rearward cylindrical portion. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Ritchey system to have included a tapered

portion as called for in claim 5, while retaining a rear cylindrical portion in order to reduce stress on the base.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Ritchey system to have a taper angle of between 5.5-7° as called for in claim 6, to help prevent rotation.

3. Claims 7, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey and Lebegue as applied to claims 1, 10 and 19 above, and further in view of Bitelli (U.S. Patent number 6,086,160).

Ritchey fails to show the external portion adjacent to the tapered portion having a shoulder and rounded undercut portion which weakens and fails first.

Bitelli shows a similar sleeve which includes a shoulder and rounded undercut portion which weakens and fails first, which prevents the sleeve from breaking in the bore.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Ritchey system to have a shoulder and rounded undercut portion which weakens and fails first, as called for in claims 7, 15 and 22, in order to prevent the sleeve from breaking in the bore.

3. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey and Lebegue and further in view of Bitelli (U.S. Patent number 6,086,160).

Ritchey fails to show the tapered portion.

LeBegue teaches that it is desirable to include tapered portions in portions of similar tools which are received in the holder. This is done to reduce stress on the base member (see col. 2, lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ritchey system to have included a tapered portion as in order to reduce stress on the base.

Ritchey also fails to show the external portion adjacent to the tapered portion having a shoulder and rounded undercut portion which weakens and fails first.

Bitelli shows a similar sleeve which includes a shoulder and rounded undercut portion which weakens and fails first, which prevents the sleeve from breaking in the bore.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Ritchey system to have a shoulder and rounded undercut portion which weakens and fails first, as called for in claims 23, 24 and 25, in order to prevent the sleeve from breaking in the bore.

Ritchey also shows the retainer as called for in claims 26 and 27.

Ritchey also shows the retainer positioned in the annular groove as called for in claim 28.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 10, and 18 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

3. Claims 9 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

John Kreck  
Examiner  
Art Unit 3673

JJK  
May 16, 2003